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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,965

10/15/2004

Fred Bishop

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20322 7590 03/28/2008

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EXAMINER

ELISCA, PIERRE E

ART UNIT

PAPER NUMBER

3621

MAIL DATE

DELIVERY MODE

03/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/711,965	<b>Applicant(s)</b> BISHOP ET AL.	
	<b>Examiner</b> Pierre E. Elisca	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 10-14, 17-20, 22 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10-14, 17-20, 22 and 24-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This communication is in response to Applicant's amendment filed 01/25/2008.
2. Claims 1-4, 10-14, 17-20, 22, 24-29 are currently pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 10-14, 17-20, 22, and 24-29 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Zalewski et al U.S. Pat. No. 6,771,981 in view of Wankmueller, John (U.S. Pat. No. 7,287,695).

As per claims 1, 3, 4, 10-14, 17-20, 22 and 24-29 Zalewski discloses a system for making payments, comprising at least one mobile station using a radio frequency (RF), the system comprising:

Receiving user account data from a transaction application stored on a RF module for use in transaction completion, the RF module in physical and logical communication with a mobile device microprocessor, providing secondary identification to the mobile device microprocessor in response to a request for secondary identification for end user authentication, the request for secondary identification being provided to an end user via a mobile device user interface, the secondary identification being one of voice

recognition data, biometric recognition data and alphanumeric data, and processing the user account data for transaction completion (see., abstract, col 1-col 16).

Zalewski fails to explicitly disclose Applicant's newly added limitations of reading a decryption key associated with the RF ID code, and using the decryption key to decrypt the encrypted authentication code. Wankmueller discloses a system for conducting financial transactions using encryption/decryption key associated with a RF ID code (see., Wankmueller, col 2-col 6).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the radio frequency of Zalewski by including the limitations detailed above as taught by Wankmueller because this would provide a more secure manner of conducting a payment transaction.

As per claim 2 Zalewski discloses the claimed method wherein said receiving the user account data from the RF module, where the user account data is provided subsequent to authentication of an end user secondary identifier, the secondary identifier being provided for authentication by the end user at the a mobile device interface (see., abstract, col 1-col 8).

5. Claims 1-4, 10-14, 17-20, 22, and 24-29 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Zalewski et al U.S.PG Pub20040030601 in view of Wankmueller, John (U.S. Pat. No. 7,287,695).

As per claims 1-4, 10-14, 17-20, 22, and 24-29 Zalewski discloses an electronic payment methods for mobile device using a radio frequency (RF) transponder, the system comprising:

Receiving user account data from a transaction application stored on a RF module for use in transaction completion, the RF module in physical and logical communication with a mobile device microprocessor, providing secondary identification to the mobile device microprocessor in response to a request for secondary identification for end user authentication, the request for secondary identification being provided to an end user via a mobile device user interface, the secondary identification being one of voice recognition data, biometric recognition data and alphanumeric data, and processing the user account data for transaction completion (see., abstract, paragraph, 0017], [0083], [0122], [0123], [0144]).

Zalewski fails to explicitly disclose Applicant's newly added limitations of reading a decryption key associated with the RF ID code, and using the decryption key to decrypt the encrypted authentication code. Wankmueller discloses a system for conducting financial transactions using encryption/decryption key associated with a RF ID code (see., Wankmueller, col 2-col 6).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the radio frequency of Zalewski by including the limitations detailed above as taught by Wankmueller because this would provide a more secure manner of conducting a payment transaction.

## **RESPONSE TO ARGUMENTS**

6. Applicant's arguments with respect to claims 1-4, 10-14, 17-20, and 22 have been fully considered but they are moot in view of new ground (s). Necessitated by amendment.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00. Patents and hoteling.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571 272 6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Pierre E. Elisca/  
Primary Examiner, Art Unit 3621